

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

UNITED STATES OF AMERICA)
and STATE OF MARYLAND,)
Plaintiffs,)
v.)
MAYOR AND CITY COUNCIL OF)
BALTIMORE,)
Defendant.)

Civil Action No. Y-97-4185

CONSENT MOTION TO TERMINATE CONSENT DECREE

The United States of America, on behalf of the United States Environmental Protection Agency, and with the consent of co-Plaintiff the State of Maryland and Defendant Mayor and City Council of Baltimore (“Baltimore”) (collectively, the “Parties”), respectfully moves this Court to sign and enter the attached proposed Order terminating the consent decree in this matter among the Parties. The United States sets forth the following in support of this motion:

1. The consent decree in this matter was approved and entered by this Court on November 17, 1999. The consent decree resolved the liability of Baltimore arising out of, and with respect to, the claims for relief asserted in the United States' Complaint and Amended Complaints, and Maryland's Complaint in Intervention and Amended Complaints, in this action. The United States and Maryland alleged that Baltimore violated the federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, and the terms and conditions of National Pollutant Discharge Elimination System ("NPDES") permits, and Maryland further alleged that Baltimore violated Title 9, Subtitle 3 of the Environment Article, Annotated Code of Maryland, by discharging excessive

levels of pollutants from Baltimore's Ashburton Water Filtration Plant and Patapsco Wastewater Treatment Plant.

2. In pertinent part, the consent decree required Baltimore to perform substantial injunctive relief with respect to the Ashburton and Patapsco Plants, including installation of improved treatment equipment and enhanced operation and training procedures, to pay a civil penalty of \$1 million to the United States and Maryland, and to perform three supplemental environmental projects. The consent decree also subjects Baltimore to liability for stipulated penalties for failure to complete required actions and for certain ongoing discharges. Pursuant to Paragraph 88 of the consent decree, this Court retained continuing jurisdiction to enforce the terms and conditions of the consent decree and to resolve disputes arising thereunder.

3. Section XXIV (Termination) of the consent decree provides that the consent decree shall terminate, upon motion of the United States and Maryland, after Baltimore has: (a) complied with all provisions contained in the consent decree, which include the provisions requiring performance of the injunctive relief; (b) paid all penalties due hereunder and completed all supplemental environmental projects; and (c) certified completion of these requirements to the United States and Maryland.

4. Baltimore has certified that it has completed all work required under the consent decree and paid all penalties due thereunder. The United States and Maryland have reviewed Baltimore's certification and determined that Baltimore has satisfied its obligations under the consent decree. Therefore, the United States, with the consent of Maryland, is filing this motion to terminate the consent decree in accord with Paragraph 89 of the consent decree.

For the above reasons, the United States respectfully requests that the Court execute the attached proposed Order terminating the consent decree in this matter.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

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CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2005, I caused copies of the foregoing Consent Motion to Terminate Consent Decree to be delivered by U.S. Mail to counsel for co-Plaintiff and Defendant at the addresses below:

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[PROPOSED] ORDER

For reasons stated in the Consent Motion filed by the United States on October 26, 2005,
it is this _____ day of _____, 2005, by the United States District Court for the District
of Maryland ORDERED:

That the consent decree between the United States of America, the State of Maryland, and the Mayor and City Council of Baltimore entered by this Court on November 17, 1999, and all obligations thereunder, are hereby terminated.

UNITED STATES DISTRICT JUDGE